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December 19, 1996

By facsimile transmission

Mr. William Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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DEC 19 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RE: OPENING COMMENTS ON FEDERAL-STATE JOINT BOARD'S RECOMMENDED
DECISION, DOCKET NO. 96-45

Dear Mr. Caton,

I write concerning opening comments on the Federal-State Joint Board's Recommended Decision, which are due today. On behalf of the National Council of La Raza, Southern Christian Leadership Conference, California Association for Bilingual Education, and others, I prepared comments for delivery by overnight mail to your office today. For deliveries the next day from California to the East Coast, Federal Express has customarily required that packages be deposited with it by 6:00 p.m. When I arrived at Federal Express yesterday at 5:50 p.m., however, I was informed that Federal Express has temporarily changed the time to 5:40 p.m. due to the holiday season.

I discussed these circumstances with your office, which suggested that I fax them today. I faxed them to the National Council of La Raza's office in Washington, and they are timely filing the facsimile transmission with you today. (Your office will also receive the Federal Express packet tomorrow.) Although this is not the original, the National Council of La Raza requests that you deem the comments timely and properly filed under the circumstances. If a formal motion and declaration are required, would you please telephone me at (415) 431-7430 and I will prepare them posthaste.

Very truly yours,

Mark Savage

enclosure

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
OF THE UNITED STATES OF AMERICA

In the Matter of

Federal-State Joint Board on
Universal Service

) FCC No. 96-93

) Common Carrier Docket No. 96-45

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DEC 19 1996

~~FEDERAL COMMUNICATIONS COMMISSION~~
~~BOARD OF DIRECTORS~~
OPENING COMMENTS ON THE FEDERAL-STATE JOINT BOARD ON
UNIVERSAL SERVICE
AND CONSEQUENCES FOR UNIVERSAL SERVICE IN
LOW-INCOME, MINORITY, AND LIMITED-ENGLISH-SPEAKING COMMUNITIES

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SUMMARY OF FILING

1. The Federal-State Joint Board's Recommended Decision makes significant contributions to universal service in low-income, minority, and limited-English-speaking communities:

- ▶ Recognizing the disparities in access between schools and libraries in more affluent communities and those in traditionally underserved low-income, minority, and limited-English-speaking communities, the Recommended Decision supports higher discounts for the latter to avoid perpetuating and to remedy these existing disparities. [Recommended Decision ¶¶ 562-563.]
- ▶ The Recommended Decision supports states' efforts to ensure multi-lingual information regarding services, rates, and billing to their respective residents. [Recommended Decision ¶ 393.]
- ▶ The Recommended Decision modifies the federal Lifeline program to reach low-income consumers in every state. [Recommended Decision ¶ 417.]
- ▶ In order to help increase subscribership among low-income consumers, the Recommended Decision prohibits carriers from disconnecting local service for failure to pay toll charges, and supports providing voluntary toll limitation free of charge to low-income consumers. Furthermore, it prohibits restrictions on the number of supported service connections for low-income consumers, and prohibits service deposits for Lifeline customers with toll blocking. [Recommended Decision ¶¶ 384, 387, 428, 429.]

2. **UNIVERSAL SERVICE GOAL.** The National Council of La Raza and others continue to recommend that the Federal Communications Commission should give effect to the principles of Section 104 and Section 254(b) and should state a universal service goal that, in each state, carriers should work to achieve that state's statewide average rate of subscribership specifically in that state's low-income, minority, and limited-English-speaking communities.

3. **COMMUNITY-BASED ORGANIZATIONS.** The National Council of La Raza and others continue to recommend that the Federal Communications Commission should ensure full and equal access to advanced services for community-based organizations. Section 254(b) provides that access to advanced telecommunications services should be had in all regions of the nation, and focusing on the centrally located community-based organizations would be an efficient and effective beginning. The fact that schools, libraries, and health-care providers are specifically mentioned does not preclude giving equal effect to the provisions of section 254(b) promoting access in all regions. At the very least, community-based organizations providing educational, health, and literacy services should be embraced.

Introduction

The Federal-State Joint Board's Recommended Decision makes significant contributions to universal service in low-income, minority, and limited-English-speaking communities, and the National Council of La Raza, Southern Christian Leadership Conference, Korean Youth and Community Center, Filipino Civil Rights Advocates, Filipinos for Affirmative Action, Association of Mexican-American Educators, California Association for Asian-Pacific Bilingual Education, Chicano Federation of San Diego County, El Proyecto del Barrio, Escuela de la Raza Unida, and Lawyers' Committee for Civil Rights of the San Francisco Bay Area ("National Council of La Raza") very much appreciate those contributions as well as the consideration given their prior comments.

At this stage, in response to Public Notice DA 96-1891,¹ they raise two key recommended changes to the Recommended Decision. First, the Recommended Decision repeats throughout the Joint Board's and the Commission's significant concerns with the low subscribership levels for many communities. E.g., Recommended Decision ¶ 416. Once again, the National Council of La Raza urges the Commission to adopt a universal service goal that, in each state, carriers should work to achieve the state's *statewide average rate* of subscribership specifically in that state's low-income, minority, and limited-English-speaking communities. Second, the National Council of La Raza renews their recommendation that the Commission encourage access for community-based organizations to advanced telecommunications and information services.

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¹ Public Notice DA 96-1891 directed parties to file comments on the Recommended Decision by December 16, 1996. That date was subsequently extended to December 19, 1996.

I. THE NATIONAL COUNCIL OF LA RAZA AND OTHERS ACKNOWLEDGE AND APPRECIATE THE RECOMMENDED DECISION'S SIGNIFICANT CONTRIBUTIONS TO UNIVERSAL SERVICE IN LOW-INCOME, MINORITY, AND LIMITED-ENGLISH-SPEAKING COMMUNITIES.

The Federal-State Joint Board's Recommended Decision makes significant contributions to universal service in low-income, minority, and limited-English-speaking communities, and the National Council of La Raza wishes to acknowledge those contributions.

1. Recognizing the disparities in access between schools and libraries in more affluent communities and those in traditionally underserved low-income, minority, and limited-English-speaking communities, the Recommended Decision supports higher discounts for the latter to avoid perpetuating and to remedy these existing disparities. [Recommended Decision ¶¶ 562-563.]

2. The Recommended Decision supports states' efforts to ensure multi-lingual information regarding services, rates, and billing to their respective residents. [Recommended Decision ¶ 393.]

3. The Recommended Decision modifies the federal Lifeline program to reach low-income consumers in every state. [Recommended Decision ¶ 417.]

4. In order to help increase subscribership among low-income consumers, the Recommended Decision prohibits carriers from disconnecting local service for failure to pay toll charges, and supports providing voluntary toll limitation free of charge to low-income consumers. Furthermore, it prohibits restrictions on the number of supported service connections for low-income consumers, and prohibits service deposits for Lifeline customers with toll blocking. [Recommended Decision ¶¶ 384, 387, 428, 429.]

For the reasons stated in the Recommended Decision and in National Council of La Raza's and other parties' prior comments, these recommendations are well supported by the public interest and the Commission's legal authority to implement them.

1 **II. THE COMMISSION SHOULD ADOPT A UNIVERSAL SERVICE GOAL THAT,**
2 **IN EACH STATE, CARRIERS SHOULD WORK TO ACHIEVE THAT STATE'S**
3 **STATEWIDE AVERAGE RATE OF SUBSCRIBERSHIP IN THE STATE'S LOW-**
4 **INCOME, MINORITY, AND LIMITED-ENGLISH-SPEAKING COMMUNITIES.**

5 In their prior comments, the National Council of La Raza recommended that the Joint
6 Board and the Commission should give effect to the key principles of Section 104 and Section
7 254(b) by stating a universal service goal that, in each state, carriers should work to achieve
8 that state's statewide average rate of subscribership in that state's low-income, minority, and
9 limited-English-speaking communities. As the Federal Communications Commission has
10 recognized, subscribership levels are far lower in these communities. At the same time,
11 carriers manage to serve other areas at subscribership levels well above the statewide average.
12 Consequently, California's Public Utilities Commission has established such an a universal
13 service goal of 95 percent service (California's statewide average) particularly in California's
14 low-income, minority, and limited-English-speaking communities. The Joint Board
15 acknowledged this recommendation, Recommended Decision ¶ 415, but appears not to have
16 reached a conclusion on its merits.

17 Paragraph 50 of the Notice of Proposed Rulemaking requested comment regarding "the
18 Commission's overall responsibilities under Sections 1 and 254 with regard to low-income
19 consumers". Section 1 and Section 254, as well as the Recommended Decision, acknowledge
20 that factors other than rates and affordability account for the failure to achieve universal
21 subscribership levels. E.g., Recommended Decision ¶ 126. The National Council of La Raza
22 recommends that the Commission craft a universal service goal which recognizes these
23 factors--that the Commission should recognize that race, national origin, and language, as well
24 as income, account considerably for the failure to achieve universal service in many regions of
25 the United States, and that the Commission implement corrective policies.
26

1 The Commission has new responsibilities under Section 104 of the Telecommunications
2 Act, "to make available, so far as possible, to all the people of the United States *without*
3 *discrimination on the basis of race, color, religion, national origin, or sex* a rapid, efficient,
4 Nation-wide, and world-wide wire and radio communication service with adequate facilities at
5 reasonable charges"² The Commission's subscribership reports have long recognized
6 that people of Hispanic origin and African-Americans independently have far lower
7 subscribership levels. The National Council of La Raza's prior comments presented a record
8 demonstrating those differences.³ To bring universal service to low-income, minority, and
9 limited-English-speaking communities, the National Council of La Raza continues to
10 respectfully urge the Federal Communications Commission to state a universal service goal
11 that, in each state, carriers should work to achieve that state's statewide average rate of
12 subscribership in that state's low-income, minority, and limited-English-speaking communities.

13
14 **III. THE FINAL DECISION SHOULD IMPLEMENT THE ACT'S PRINCIPLES TO**
15 **ENCOURAGE ACCESS FOR COMMUNITY-BASED ORGANIZATIONS TO**
16 **ADVANCED TELECOMMUNICATIONS AND INFORMATION SERVICES.**

17 In their prior comments, the National Council of La Raza recommended that the Federal
18 Communications Commission encourage access for community-based organizations to
19 advanced telecommunications and information services. People in the community often seek
20 information and leadership on economic, social, and governmental issues, first and foremost
21 from the community-based organizations. As their prior comments noted, however,
22 community-based organizations hardly have the full and equal access to advanced services they
23 should have. Section 254(b) provides that access to advanced telecommunications services

24
25 ² Telecommunications Act of 1996, sec. 104 (amending 47 U.S.C. § 151).

26 ³ Opening Comments on Universal Service in Low-Income, Minority, and Limited-English-Speaking Communities at 5-9, 10-18, exhs. 1-5 (Apr. 11, 1996).

1 should be had in all regions of the nation, and focusing on the centrally located community-
2 based organizations would be an economically efficient and effective beginning. The fact that
3 schools, libraries, and health-care providers are specifically mentioned does not preclude the
4 Commission's responsibilities to give full and equal effect to the provisions of section 254(b)
5 promoting access in *all* regions.

6 At the very least, the National Council of La Raza recommended that community-based
7 organizations providing educational, health, and literary services should have such access. The
8 Recommended Decision acknowledged this recommendation, but did not adopt it. The draft
9 stated that the Telecommunications Act of 1996 "specifically defines the categories of
10 institutions that are eligible for discounted telecommunications and information services, and
11 we find no evidence that Congress intended this Joint Board or the Commission to supplement
12 the 1996 Act's definition", citing 47 U.S.C. § 254(h)(5)(C). Recommended Decision ¶¶ 20,
13 26.

14 Because of community-based organizations' critical importance, the National Council of
15 La Raza reiterates this recommendation and undertakes to address the draft's statutory
16 concerns. Community-based organizations are carrying the brunt of the load of providing
17 critical services. As they are called upon to serve more of the poor with fewer resources, they
18 need quick and effective access to the information and programs necessary to provide these
19 services. They have urgent needs *now* for full access to the information superhighway. They
20 are also operating at deficits. Their sources of funds are not increasing nearly as rapidly as
21 their expenses to provide even minimal services to the community. Thus, they would need
22 access to these advanced telecommunication services at affordable rates. Surely as non-profit
23 charitable organizations serving the poor, they should qualify for discounted rates.

24 The National Telecommunications and Information Administration suggests that until
25 connectivity to households is more widespread, community centers, like public schools and
26 libraries, play a pivotal role in providing information access to underserved communities.

1 California's Legislature found that community-based organizations should have such priority
2 "[b]ecause of their economic and social impact".⁴ Mr. Bong Hwan Kim of the Korean Youth
3 and Community Center agrees on the importance of having advanced information technologies
4 available in community-based organizations. His organization has found that such technologies
5 provide a powerful mechanism to reach isolated low-income, immigrant communities with
6 information on social services, education, arts and culture, and consumer issues.⁵ Indeed,
7 KYCC is using advanced communication technology to enhance its capacity and efficiency in
8 order to continue or increase its levels of services to the community even as resources
9 decline.⁶

10 The Joint Board's and the Commission's responsibilities for advanced services are *not*
11 limited to the provisions specifically for schools, libraries, and health-care providers. Rather,
12 the Telecommunications Act of 1996 directs that the Joint Board and the Commission "*shall*
13 base policies for the preservation and advancement of universal service on the following
14 principles". 47 U.S.C. § 254(b). "Access to advanced telecommunications and information
15 services should be provided in all regions of the Nation." *Id.* § 254(b)(2). Providing access to
16 community-based organizations provides one of the most efficient and effective means of
17 doing so. Section 254(b)(3) further states that "[c]onsumers in all regions of the Nation,
18 including low-income consumers and those in rural, insular, and high cost areas, should have
19 access to telecommunications and information services, including interexchange services and
20 *advanced telecommunications and information services*, that are reasonably comparable to
21 those services provided in urban areas and that are available at rates that are reasonably
22 comparable to rates charged for similar services in urban areas." In sum, Section 254(b)(2)

24 ⁴ Act of July 21, 1994, ch. 278, § 2(b)(6).

25 ⁵ Declaration of Bong Hwan Kim ¶ 11.

26 ⁶ *Id.* ¶ 10.

1 states that advanced telecommunications should be accessible to all people. Section 254(b)(3)
2 reiterates the general concept of section 254(b)(2), but further expresses an explicit intent that
3 low-income consumers, among others, are among the "consumers in all regions" to have access
4 to telecommunications services, including advanced services. Both require the Commission to
5 promote advanced services beyond those provisions for schools, libraries, and health-care
6 providers.

7 The Telecommunications Act further directs the Joint Board and Federal
8 Communications Commission to "tak[e] into account advances in telecommunications and
9 information technologies and services" when defining that "evolving level of
10 telecommunications services" which is universal service. Id. § 254(c)(1). Support for those
11 community-based organizations, which again are increasingly carrying the brunt of providing
12 critical economic and governmental services in the communities, would assuredly meet the
13 criteria specified for consideration in subsections (A)-(D). The Telecommunications Act of
14 1996 nowhere prohibits the Commission, in its efforts to advance universal service, from
15 designating that certain additional, advanced services (such as those being proposed for
16 schools) be made available to community-based organizations in order to implement the
17 principle that "[a]ccess to advanced telecommunications and information services should be
18 provided in all regions of the Nation".⁷ Intervenor urge the Commission to exercise that
19 discretion in order to fulfill the stated statutory mandate.

20 The California Public Utilities Commission's recent universal-service decision provides
21 an example which goes far to bring the information superhighway, universal service, and

22
23 ⁷ The Act directs the Commission's discretion and provides specific guidance in the
24 provision of advanced services to schools, libraries, and health-care providers. As the
25 Commission recognizes its "discretion to determine whether such a [greater] discount [for
26 economically disadvantaged schools] is necessary to make access to and use of such services
affordable for disadvantaged schools and libraries", Recommended Decision ¶ 561, the
Commission has discretion to implement the other, more general provisions of the Act directed
the Commission to achieve access to advanced telecommunications and information services in
all of the other regions of the Nation.

1 competition to California's low-income, minority, and limited-English-speaking communities.
2 It recognized that "CBOs, especially in low income and non-English speaking communities,
3 oftentimes serve as a meeting place for people in those communities, and the CBOs oftentimes
4 act as advocates on behalf of those communities on issues of interest. By providing access to
5 CBOs, we can position communities to take advantage of the benefits of the information age,
6 and promote access to the technology and information infrastructure throughout the state."
7 Decision 96-10-066 at 85, File Nos. R.95-01-020/I.95-01-021 (Oct. 25, 1996).

8 Under the California PUC's decision, qualified community-based organizations are those
9 exempt from taxation under Section 501(c)(3) or 501(d) of the *Internal Revenue Code*, which
10 offer health care, educational instruction, job training, or job placement. Qualified CBOs are
11 entitled to 25 percent off the price for the following advanced services, limited to one or two
12 such lines: switched 56, ISDN, T-1, DS-3, and their functional equivalents. These CBOs may
13 negotiate even greater discounts. There is \$5 million annually available to fund such
14 discounted access. Decision 96-10-066 at 85-86.

15 As the California Public Utilities Commission stated,

16 The California Teleconnect Fund also reduces the dichotomy between the
17 information rich and the information poor. . . . By providing qualifying CBOs
18 with discounts for high speed data connections, these CBOs can better serve their
19 constituencies, and provide the communities they serve with increased access to
20 the telecommunications network, thereby decreasing the stratification between
21 information rich and information poor communities.

22 Decision 96-10-066 at 90-91. The Federal Communications Commission has demonstrated an
23 equal concern with the separation between information rich and information poor. The
24 National Council of La Raza strongly urges the Commission to adopt their recommendation to
25 provide access to the critical community-based organizations in order to provide broader access
26 to the communities they serve.

///

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Conclusion

The National Council of La Raza, Southern Christian Leadership Conference, Korean Youth and Community Center, Filipino Civil Rights Advocates, Filipinos for Affirmative Action, Association of Mexican-American Educators, California Association for Asian-Pacific Bilingual Education, Chicano Federation of San Diego County, El Proyecto del Barrio, Escuela de la Raza Unida, and Lawyers' Committee for Civil Rights of the San Francisco Bay Area very much appreciate the considerable progress which the Joint Board's Recommended Decision makes towards universal service in low-income, minority, and limited-English-speaking communities. They respectfully submit, however, that further prudent advances are needed, that the Telecommunications Act of 1996 authorizes those necessary advances, and

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1 that the Federal Communications Commission should incorporate the recommendations into its
2 final decision and rules.

3
4 Dated in San Francisco, California, on the 19th day of December, 1996.

5 Respectfully submitted,

6 PUBLIC ADVOCATES, INC.
7 MARK SAVAGE
8 CARMELA CASTELLANO

9 

10 MARK SAVAGE

11 Attorneys for
12 NATIONAL COUNCIL OF LA RAZA
13 SOUTHERN CHRISTIAN LEADERSHIP
14 CONFERENCE
15 KOREAN YOUTH AND COMMUNITY CENTER
16 FILIPINOS FOR AFFIRMATIVE ACTION
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20 CALIFORNIA ASSOCIATION FOR ASIAN-
21 PACIFIC BILINGUAL EDUCATION
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23 COUNTY
24 EL PROYECTO DEL BARRIO
25 ESCUELA DE LA RAZA UNIDA
26 LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA

PROOF OF SERVICE

I, the undersigned, hereby declare:

1. I am a citizen of the United States of America over the age of eighteen years. My business address is 1535 Mission Street, San Francisco, California, 94103. I am not a party to this action.

2. On December 19, 1996, I caused service of a true and correct copy of this document, **Opening Comments on the Federal-State Joint Board's Recommended Decision and Consequences for Universal Service in Low Income, Minority and Limited-English-Speaking Communities**, dated December 19, 1996, upon the persons below by depositing in the United States mail an envelope containing a true and correct copy of this document, with proper postage affixed, addressed to:

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I declare under penalty of perjury that the foregoing is true and correct.

Dated in San Francisco, California, this 19th day of December 1996.


JULIA JOHNSON
Declarant